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Attorneys for Federal Defendant

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

SHANNON O. MURPHY,

Plaintiff,

v.

UNITED STATES ARMY NATIONAL
 GUARD (CALIFORNIA), BATTERY S, 143RD
 FIELD ARTILLERY,

Defendant.

Case No. 08-763 PJH

STATEMENT OF NON-RECEIPT
 BY DEFENDANT OF OPPOSITION
 TO MOTION TO DISMISS

Date: May 21, 2008
 Time: 9:00 a.m.
 Place: Courtroom 3, 17th Fl.
 Before: Hon. Phyllis J. Hamilton

Pursuant to this Court's Order dated April 11, 2008, the Federal Defendant hereby informs the Court that Defendant has not received an opposition to its motion to dismiss. Defendant further requests, pursuant to the Order that the motion be decided based upon Defendant's motion.

Respectfully submitted,

JOSEPH P. RUSSONIELLO
 United States Attorney

Dated: May 7, 2008

By:

/s/
 ABRAHAM A. SIMMONS
 Assistant United States Attorney